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Summary record of the 2784th meeting
Held at Headquarters, New York, on Monday, 21 March 2011, at 3 p.m.

Chairperson: Ms. Majodina

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The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 40 of the Covenant (*continued*)

Fifth periodic report of Mongolia
(CCPR/C/MNG/5, CCPR/C/MNG/Q/5 and Add.1)

1. *At the invitation of the Chairperson, the members of the delegation of Mongolia took places at the Committee table.*

2. **Mr. Bayasgalan** (Mongolia), introducing the fifth periodic report of Mongolia, said that, among the most significant recent events, in January 2010, the President had announced a moratorium on the death penalty. Capital punishment had been abolished unofficially since 2009 because, according to the Constitution, anyone sentenced to death could apply to the President for pardon and thus far, it had always been granted. Nevertheless, capital punishment remained in the Criminal Code as the penalty for seven types of crime. Mongolia was, however, planning to accede to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, and the corresponding draft legislation had been submitted to Parliament for consideration.

3. In February 2011, a law on gender equality had been enacted in order to establish a legal basis for ensuring equality in all spheres. While not regulating the question of equal representation, it provided for equal financial support for male and female candidates in elections and established minimum quotas for women in government departments and agencies.

4. **The Chairperson** invited the members of the Committee to put questions to the delegation in connection with questions 1 to 16 in the list of issues (CCPR/C/MNG/Q/5).

5. **Mr. Iwasawa** said that Mongolia was to be commended because it was a party to most of the United Nations core treaties. further information on the Mongolia rules recently adopted on timely reporting to the treaty bodies would be appreciated. The Committee had considered the State party's fourth periodic report more than 10 years previously, in 2000, and the opportunity to resume the dialogue was very welcome. The Government had provided written replies to all the issues, but some responses were not detailed enough and were limited to explaining Mongolia's laws rather than expanding on the implementation of the Covenant in the country. In article 40, paragraph 2, of the Covenant, State parties were asked to indicate in their reports the factors and difficulties affecting the implementation of the Covenant. and he therefore looked forward to a frank discussion on factors affecting its implementation in Mongolia.

6. The Committee had noted with satisfaction a number of positive developments, including the establishment of the National Human Rights Commission in 2001 and the Committee for the implementation of the national gender equality programme in 2005, and various policy measures, such as the national programmes to combat domestic violence and the trafficking of children and women, to promote gender equality and to support people with disabilities. It was nevertheless monitoring the effectiveness of those policy measures with interest and concern.

7. With regard to question 1 in the list of issues, the Committee understood that, under the Constitution, international treaties to which Mongolia was a party became effective as domestic legislation; thus, the Covenant had the force of law in Mongolia. However, the Constitution also stipulated that Mongolia should not abide by any international treaty that was incompatible with its Constitution, which appeared to mean that the Constitution prevailed over international treaties. Consequently, the delegation should clarify the status of the Covenant in relation to domestic law and whether the Covenant was applicable directly and could be invoked by the courts. It would also be useful to know whether the Covenant had been invoked by parties before the courts, or by the courts themselves, and whether it could be invoked before the Constitutional Court. The Committee had been informed of a case in which the parties had invoked human rights treaties before the courts and, as a result, the defendant had received a heavier penalty.

8. There had been allegations that the National Human Rights Commission was neither independent nor impartial. Hence, the delegation should clarify how the commissioners were appointed and who appointed them, as well as its role and responsibilities, since the Committee understood that it mainly conducted research and training. It would also be useful to know if the Commission could address specific human rights violations and whether its budget allowed it to function independently.

9. Parliamentary elections had been held in June 2008 and the post-election protests had evolved into a riot. As a result, a state of emergency had been declared which had lasted four days and it had been alleged that many human rights violations had been committed by law enforcement officials while it was in force. Over 700 people had been arrested, 450 of them had been investigated, around 300 charged and 270 sentenced to varying terms of imprisonment. Many detainees had allegedly been beaten and forced to sign self-incriminating statements, and there had been numerous instances of unnecessary and excessive use of force by the police. At least nine people had been shot; four had been killed by gunfire and one had died of smoke inhalation. The Committee would appreciate it if the delegation could confirm and comment on those facts.

10. The Committee had asked the State party whether the perpetrators of the human rights violations had been brought to justice and whether the victims had received adequate reparation (question 2). The written replies cited the 2009 and 2010 Amnesty Laws and article 91 of the Criminal Code and the delegation should provide the Committee with the full text of those laws. In the case of the four people shot dead, the State party had indicated that an investigation had been conducted involving six police officers and four of their superiors, but the cases against the six officers had been dropped owing to insufficient evidence; the reasons for the decision not to prosecute them required clarification. The four superior officers had been released under the 2010 amnesty law. The delegation should explain whether it was a general amnesty law, why it had been enacted, and in what way the four superior officers had fulfilled the law's requirements. The Committee would appreciate confirmation of the fact that the case against those four officers had been reopened.

11. In the case of the individual who had died from smoke inhalation had been discontinued under the 2009 Amnesty Law. It would be useful to know how many police officers had been questioned in relation to the case and, again, whether it was a general amnesty, why it was enacted, and what the requirements were for granting amnesty.

12. In addition, the delegation should explain how the application of amnesty laws to the acts of police officers during the events of July 2008 was compatible with article 2, paragraph 3 of the Covenant which required that any person whose rights had been violated must have an effective remedy. He also asked about the role played by the National Human Rights Commission at the time and whether it had expressed concern about human rights violations.

13. The written replies stated that compensation to victims was assessed on the basis of the degree and characteristics of their injuries. The delegation should confirm that compensation was sufficient in comparison with amounts awarded in other cases.

14. With reference to the issues relating to non-discrimination and equal rights of men and women (questions 3 to 6), traditional discriminatory practices relating to the roles and responsibilities of women in the family and in society were a matter of concern to the Committee. It had taken note of the Government's efforts to eliminate gender inequality but it was unclear whether the draft law on gender equality that included a definition of direct and indirect discrimination had been enacted. Furthermore, the Committee would welcome an explanation of why the 2007 revision of the national programme on gender equality to include a more rights-based approach had not been approved.

15. The Committee understood that the law on parliamentary elections had been amended in December 2005 to include a provision requiring that at least 30 per cent of party and coalition candidates were women. it would be interesting to know why that had been annulled prior to the 2008 elections. The percentage of women elected to Parliament had decreased in recent years. The Committee would appreciate an explanation for the decline, which could indicate the continuing existence of de facto discrimination in Mongolian society.

16. The National Human Rights Centre was headed by a woman but, despite high levels of education and active participation in the labour market, women were under-represented in political decision-making positions and it would be interesting to know why. Furthermore, women constituted 51 per cent of the total workforce, but were mostly employed in low-paid jobs. How did the Government intend to address that problem?

17. The lesbian, gay, bisexual and transgender community had reported widespread human rights abuses by both the public and private sectors. Discrimination included denial of human rights in areas such as employment, health, housing, freedom of

association and peaceful assembly. Recently, physical and sexual attacks on transgender persons had allegedly been perpetrated by ultra-nationalists and the community was also subjected to surveillance and arbitrary arrest by law enforcement officials. The Committee noted with satisfaction that some measures were being taken to address such difficulties, and the Government should intensify awareness-raising campaigns to counter discriminatory attitudes among law enforcement officials and the wider public. The Mongolian Constitution established that no person could be discriminated against on the basis of sex; did that include the prohibition of discrimination based on sexual orientation? Also, how many people in Mongolia had HIV/AIDS and were they discriminated against?

18. **Ms. Keller** said that the enactment of the gender equality law was commendable; however, the State party's response did not answer the original question, which was whether the State party intended to adopt comprehensive anti-discrimination legislation. and she would be grateful for any additional information the delegation should provide on that subject. It would also be useful to know whether the State party had collected statistical data for monitoring national implementation of the rights set out in the Covenant, especially in relation to discrimination. non-governmental organizations (NGOs) had reported alarming statistics on people with disabilities, including children, and the Committee would appreciate additional information in that regard.

19. Further information was also required on the financial and human resources allocated to the national gender equality programme (question 4) and the specific measures needed to implement it. It would be useful to know what the State party was doing to ensure equal rights for women in the area of employment, including equal pay for work of equal value, and to strengthen maternity protection and address domestic and sexual violence. She also asked whether the State party intended to criminalize marital rape and sexual harassment and, lastly, what the State party intended to do to ensure that public officials were fully familiar with the relevant legal provisions concerning violence against women.

20. On the issue of states of emergency (question 7), the State party had affirmed in its written replies that it was incorrect to conclude that Mongolia did not abide by the Covenant because some of its provisions were not referred to specifically in the Constitution. She would be interested to know how the Covenant rights were protected by law and in practice if they were not expressly protected in the Constitution.

21. **Mr. Thelin** said it was encouraging that Parliament was taking steps to accede to the Second Optional Protocol; however, the delegation should clarify when the ratification procedure would be completed. It would be difficult to abolish capital punishment if public opinion was in favour of retaining it. What measures were being taken to raise public awareness in that regard?

22. The Prosecutor General's Office had apparently instigated new proceedings against the 10 police officers involved in the incidents that occurred during the 2008 state of emergency. The delegation should confirm that a review was under way and advise the Committee as to the possible outcome. It was unclear whether it was merely a pro forma review, or whether it was more serious and could result in indictments and proceedings. Some NGOs had suggested that the handling of the case against the law enforcement officers accused of injuring and killing demonstrators contrasted sharply with the treatment meted out to the demonstrators themselves. It was reported that some 270 individuals had been convicted and sentenced to varying terms of imprisonment; and that multiple human rights violations had been committed in connection with their trials. For example, the court proceedings had been closed on the pretext that minors were involved; due process had not been respected, and standards of evidence had not been as rigorous as in the investigation of the law enforcement officers. In particular, it appeared that those defendants whose lawyers had invoked international covenants and treaties, including the Covenant, had been given harsher sentences than the others. The Committee would appreciate the delegation's comments on those allegations. In addition, it would be useful to know how many trials had been held for the 270 defendants, and to compare the number of indictments with the number of convictions because, if some defendants had been acquitted, it was a sign that the justice administration system was working.

23. Regarding the number of complaints received concerning cases of ill-treatment and torture (question 10), the Committee required clarification of the State's written reply. It appeared that 205 complaints had been received over the period from

2003 to 2010; 143 of them had been dismissed and 35 cases had been decided on the merits. However, it was unclear whether the outcome had been a conviction or an acquittal and why over half the complaints had been dismissed. Moreover, several NGOs had alleged that the number of complaints filed had been much higher, perhaps as high as 500 or 600. The delegation should indicate possible reasons for the significantly higher numbers provided by the NGOs. It appeared that the State party had not replied to question 10(4) concerning remedies and he asked whether the victims had received compensation.

24. NGOs also claimed that the Investigation Unit of the Prosecutor General's Office was understaffed, under-resourced and lacked formal authority to challenge the police during investigations. Furthermore, the wording of the Criminal Code meant that some officials appeared to fall outside the scope of an investigation into torture and ill-treatment; for example, one official could not be investigated because of his special functions. it was a cause for serious concern that there was an officer within the police system who was virtually immune to prosecution and investigation by the State. The Committee would appreciate clarification of the situation.

25. In that regard, the Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment had recently issued concluding observations in which it had recommended the immediate repeal of article 44.1 of the Mongolian Criminal Code which appeared to exempt individuals from investigation in cases of torture if they were carrying out mandatory orders. It would be useful to know whether any progress had been made in that regard and why there was no independent and impartial mechanism in the State party's system to investigate allegations of torture and mistreatment by police officers.

26. From the written reply to question 11 on the training of law enforcement, judicial and prison officials and lawyers, it appeared that no coordinated and systematic efforts had been made to ensure appropriate training, especially since those currently providing the training were part of the system and might be subject to allegations of torture. The Committee would prefer to see an outside body engaged to train law enforcement personnel and asked whether the State party was considering that option. He was glad to hear that "sobering-up" cells were monitored by video, but would like to know the proportion of such cells in relation to regular cells in police stations and whether they were in a separate unit. In addition, the delegation should clarify whether the information was stored for later use in investigations and whether victims wishing to press charges could have access to it. Lastly, the State party should indicate whether video and audio monitoring and the recording of interrogations had been introduced.

27. **Mr. Salvioli** said that he had been surprised to read in the written reply to question 12 that, following the state of emergency, members of the Mongolian parliament and Ms. Salongo, Chairman of the National Human Rights Commission, had visited detention centres and the latter had stated publicly that the actions taken by the centres were fully in conformity with the relevant legislation and there were no signs of torture. The United Nations Committee against Torture had clearly reached a different conclusion, and one NGO maintained that 88 out of every 100 people detained had suffered some type of ill-treatment. Other reports by NGOs provided detailed accounts of the use of physical force and threats against detainees, including minors and pregnant women and, allegedly, at least 44 individuals had been charged solely on the basis of confessions made in the absence of legal assistance. Consequently, Ms. Salongo's statement raised serious concerns about the Commission's independence. The delegation should indicate whether the State party had undertaken an independent investigation, as it was obliged to do under the Covenant and the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, and whether the investigation had complied with the standards of the Istanbul Protocol. Ill-treatment or torture had physical and emotional consequences and often detainees did not feel free to say they had suffered ill-treatment, especially when the investigating body was not independent.

28. According to the written replies (question 13), no one had been detained without a judicial order from 2007 to 2009. However, other sources had provided contrary information and further clarification of the issue was required. The Committee would also appreciate information on whether steps had been taken to end the special isolation regime for long-term prisoners (question 16), and whether the existing regime was in keeping with the relevant United

Nations standards on the treatment of prisoners and the 2010 recommendations of the Committee against Torture. Lastly, if the standards were being met, it would be useful to know how the situation was being monitored. He understood that the State party allowed Amnesty International to visit some detention centres; was the State party considering expanding that possibility to other human rights protection bodies?

29. **Mr. Rivas Posada** said that the Committee would appreciate further information on how places of detention were monitored (question 14). According to the written reply, Mongolia did not have an independent monitoring system and it would be useful to know whether the State party was considering creating such a mechanism. The Committee was also concerned about overcrowding in detention centres and prisons, particularly Denjiin Myanga, which, it seemed, might be closed down. Could the delegation explain what plans the Government had to resolve the problem of overcrowding and whether it was considering measures other than detention, such as parole, in order to alleviate the situation?

30. The Committee had always insisted on the importance of establishing the shortest possible periods of detention by the police or administrative authorities, including detention prior to charges being brought and pretrial detention (question 15). Clarification should be provided as to the maximum time allowed for police detention, whether that period could be extended, and how detention prior to the final judgment operated in practice. The 2002 Code of Criminal Procedure established a maximum period of 30 months but it was unclear whether that provision remained in force or had been amended.

31. **Ms. Motoc** said that women appeared to be underrepresented at the political level (5). The Committee had received reports that Parliament had rejected a proposal that the country reinstate the 30 per cent quota system for women candidates, and it would appreciate further information in that regard.

32. Many complaints had been received from the lesbian, gay, bisexual and transgender community (question 6) that their rights were being violated and that they were victims of discrimination. She asked whether the Government was considering conducting awareness-raising activities for police and court officials, whether it planned to introduce specific legislation prohibiting discrimination against individuals with a different sexual orientation, and if it would have to overcome adverse public opinion. The delegation should clarify the reports suggesting that associations could be constituted that worked towards goals contrary to the Covenant. The universal periodic review had raised questions with regard to people with disabilities, especially children. There were reports that they faced difficulties such as abandonment, and lack of access to health care and other services.

33. It appeared almost impossible to obtain proof that someone had been tortured that would be acceptable to the courts; in addition, many reports indicated that obtaining evidence by means of torture was still allowed. The Committee would appreciate information on any measures the State party was proposing to take in that regard.

34. She understood that large numbers of people had been trafficked in Mongolia and the delegation should explain what measures were being taken in that regard, and the nature of the trafficking or slavery. The Criminal Code had specific provisions on the trafficking of children, but it was unclear whether Mongolia was using international covenants to end such practices.

35. With regard to freedom of religion, there were reports that some foreign religious groups had been banned and she would welcome more information in that regard, and also in relation to the problem of corruption among judges and in the judicial system in general in relation to article 14 of the Covenant.

The meeting was suspended at 4.30 p.m. and resumed at 5 p.m.

36. **The Chairperson** invited the members of the delegation to reply to the questions posed by the members of the Committee in connection with questions 1 to 16 in the list of issues (CCPR/C/MNG/Q/5).

37. **Mr. Bayasgalan** (Mongolia) said that, on behalf of Mongolia, he wished to express solidarity with Japan following the earthquake and tsunami which had caused such catastrophic damage.

38. Responding to the questions raised regarding the constitutional and legal framework within which the Covenant was implemented, he said that the Government of Mongolia had approved legislation on the application of international conventions, identifying agencies and institutions responsible for implementing the relevant provisions of each convention in order to ensure the timely fulfilment of its reporting obligations.

39. Mongolia had been a party to the International Covenant on Civil and Political Rights since 1990. However, the challenges it faced with regard to ratification of the Second Optional Protocol had to be taken into consideration. First, it was necessary to improve the general public's understanding and perception of the Covenant and to train the relevant authorities on its provisions. Mongolia required expertise and advice in that regard and would welcome the Committee's assistance.

40. According to the Constitution, the international treaties to which Mongolia was a party had the same status as domestic law and, in February 2008, the Supreme Court had issued a special decision recommending that all courts apply the provisions of international treaties. However, he could not recall any specific case where international treaties had been applied in the domestic courts. The Constitutional Court had full powers to make comments and recommendations on the provisions of international treaties and had applied an international treaty in one case.

41. In relation to the questions about the National Human Rights Commission, he indicated that, by law, the Commission was composed of three members with six-year mandates; members must be Mongolian nationals and one member was appointed by Parliament. Should a member be assigned to other functions or become involved in unlawful activities, he or she would be dismissed. The law also established the procedure for filing a complaint before the Commission.

42. The mandate of the National Human Rights Commission gave it full powers to investigate all human rights violations and any person obstructing the Commission's work would be punished under the applicable laws. It had the right to choose the matters it examined and to produce comments and recommendations on whether legislation was in compliance with human rights provisions. It monitored and provided comments on the implementation of international human rights treaties and conventions and produced an annual report on the national human rights situation. Regarding complaints, the Commission had full authority to participate in any proceedings and to terminate practices that violated human rights. All institutions mentioned in its comments and recommendations were obliged to comply with the relevant laws.

43. The Commission had a staff of 20 persons and Parliament approved the annual budget, which, to date, had never been reduced. Clearly it was necessary to take a comprehensive approach to strengthening the Commission by improving the legal framework for its functions, and increasing the number of its members.

44. In relation to the events of July 2008, the Government had similar information to that obtained by the Committee. Nevertheless, it should be borne in mind that the defendants had been sentenced not because they had participated in the demonstration, but rather because they had been involved in crimes, such as murder, robbery, assault and arson.

45. During the events, the National Human Rights Commission had exercised its responsibilities in accordance with its legal mandate and had visited some detention centres to investigate whether the police had committed any human rights violations. Ms. Salongo, together with members of the parliamentary subcommittee on human rights, had indeed visited detention centres immediately after the events of July 2008. All the information about the circumstances had been reviewed, but he was not in a position to make any remarks or draw conclusions about the comments made after their visit.

46. As for compensation for the victims of the demonstrations, a special law had been enacted in September 2009 to regulate the procedures for filing and deciding complaints, with specific provisions on compensation. In the case of death, family members were entitled to receive around $40,000; and in the case of injury, depending on its extent, the victim was entitled to a maximum compensation equal to 36 times the monthly salary. As to whether the compensation was sufficient, Mongolia had made a comparative study to determine the amount. It had been informed that members of the United Nations peacekeeping forces were entitled to a death benefit of up to $50,000; thus the amount of the compensation offered to the victims was similar to that offered by the United Nations.

47. The 2009 amnesty law was unrelated to the events of July 2008. It had been enacted immediately after the new President took office and one of its provisions was to offer pardon to all those sentenced to less than five years' imprisonment in criminal proceedings. Since the events in question had occurred

before 2009, all prisoners whose sentences complied with the law's requirements had received a pardon.

48. In answer to the Committee's questions on women's participation in society and the gender equality law (questions 3 to 6 in the list of issues), he said that the law, which was very comprehensive and covered every area of human rights from the gender perspective, had been enacted in February 2011. It prohibited any form of gender-based discrimination in all spheres and would be implemented gradually over the next two or three years.

49. Regarding the decline in the percentage of women parliamentarians, he said that Mongolia had decided to link the issue of the quota for female candidates to the electoral law. He assured Ms. Motoc that the political will existed to ensure that women held 30 per cent of posts at the political decision-making level. Currently, Mongolian elections were decided using the majority system; however, several political parties advocated a mixed election system (with half the seats elected by proportional representation and the other half by majority vote) to ensure adequate representation of women in Parliament; the respective draft legislation would be considered during the spring session.

50. Some progress was being made on the issue of lesbian, gay, bisexual and transgender rights (question 6). An official NGO representing the community had been registered, and efforts were under way to raise public awareness; for example, the commercial television channel had conducted a series of talks about the issue. A preliminary cooperation agreement had been concluded with that NGO for the provision of training to police officers and law enforcement officials, and the matter would be included in the curriculum of the police academy and other training institutions. Conversations had also been held with the community's representatives in Geneva in that regard. There was no record of hate crimes against the community and discrimination based on sexual orientation was prohibited by the Constitution.

51. Since Mongolia did not have special legislation concerning the lesbian, gay, bisexual and transgender community, the matter was dealt with under the provisions of relevant laws. The Government recognized that there was a clear need for specific legal regulation of the community's issues, but it had a very limited understanding of what was involved and requested the necessary technical assistance and support. Nevertheless, a comprehensive anti-discrimination law was being developed. There was no record of organizations working against the community; however, there were negative attitudes towards it throughout Mongolian society and both the Government and NGOs accorded high priority to raising the awareness of the general public.

52. Responding to Ms. Keller's concerns about persons with disabilities, he said that the Government had updated the relevant statistics and, based on the results, was taking measures to monitor the situation. In 2010, it had launched a campaign to create an accessible environment for persons with disabilities which had identified a number of challenges and resulted in the definition of cooperation initiatives with NGOs working in that area. The Government had made specific commitments and was planning to submit the first report on the implementation of the human rights of persons with disabilities in May 2011.

53. His Government accorded high priority to the issues of maternity protection and domestic violence. It had enacted a special law to combat the latter, and had established a working group to draft amendments to family law, to be considered by Parliament at its next session. Furthermore, sexual harassment was considered a criminal offence and would be included in the Criminal Code.

54. On the issue of the rights restricted during states of emergency (question 7) and whether the Constitution included relevant provisions, Mongolia referred to international conventions in that regard. Under domestic legislation, secondary laws defined the provisions of constitutional law in greater detail; in other words, the law on states of emergency and the Criminal Code, the texts of which could be provided, established definitions of specific crimes.

55. Draft legislation had been submitted to Parliament with regard to ratification of the Optional Protocol on the abolition of the death penalty (question 8) and had been examined by the legal affairs, and the national security and foreign policy standing committees, both of which had endorsed it. Parliament was currently in recess; but it would consider the issue during the spring session. If approved by Parliament, domestic law would be amended as necessary. Public opinion was divided on the matter, but the Government was in favour of abolition and the President of Mongolia

would be playing a crucial role in changing the attitude of society. Nevertheless the issue was very challenging, and would require significant time and effort.

56. The Investigation Unit of the Prosecutor General's office had started to reinvestigate the case of four senior police officers involved in the events of July 2008 (question 9); the case would be transferred to the courts for consideration when the investigation was complete. A number of working groups had been set up to deal with the incidents and a parliamentary working group would be drafting comments and recommendations.

57. The Committee had referred to numerous cases of human rights violations; however, citizens were fully entitled to file a complaint before the police and the courts. Under Mongolian law, cases involving minors had to be heard in closed courts. As to whether the trials were conducted respecting due legal process, the Prosecutor General's Office had monitored the pretrial investigation procedure, because it was responsible for ensuring the legitimacy of the investigation and the court proceedings. Obviously, the principal element for proving the guilt of a defendant in a criminal case was the evidence. As regards the precise number of cases, some cases had been joined in order to hold just one trial with one set of court rulings.

58. In relation to the complaints of torture and ill-treatment (question 10), statistics had been kept on the number of cases decided or dismissed. The Committee against Torture had considered Mongolia's periodic report on the implementation of the Convention against Torture in November 2010, and had found the definition of torture in domestic legislation rather narrow, which could explain why certain complaints of torture had been dismissed. The Government planned to revise the definition in line with the international treaties and conventions to which Mongolia was a party and, again, would require advice from relevant institutions. In addition, the Government had enacted a special law so that victims of torture were entitled to compensation. Mongolia had received the comments and recommendations of the Committee against Torture very recently and they would be carefully examined.

59. The Investigation Unit of the Prosecutor General's Office was a fairly new body and the Government was endeavouring to provide it with sufficient resources in terms of staff, technical support and budget. The Unit exercised supervisory and monitoring tasks and could investigate cases of abuse of authority by police officers. Mongolia had not established an independent investigation body to investigate allegations of ill-treatment and torture by police officers; however, it would welcome any professional advice from the Committee in that regard.

60. A special programme had been developed to train judges, prosecutors and court personnel, and high priority had been assigned to establishing a specific curriculum and programme for training and retraining police officers.

61. As regards setting up video and audio monitoring systems in detention centres, the State was pursuing a policy of increasing the number of cameras in detention centres. A new detention centre, soon to be opened, had been built in keeping with international standards and would hold up to 1,000 inmates. A video surveillance system would be functioning throughout the centre.

62. In general, physical violence, especially against minors, and lack of legal assistance were issues that could be reinvestigated by the National Human Rights Commission and by the Investigation Unit of the Prosecutor General's Office. Lawyers from NGOs provided free legal advice to detainees.

63. With regard to reports that from 2007 to 2009 some two thirds of all suspects had been detained without court authorization (question 13), there appeared to be some misunderstanding, because all detentions were carried out based on a court decision. Nevertheless, police officers had the right to detain suspects, but were bound to inform the courts within 24 hours and the courts then decided whether the detention should continue.

64. The Prosecutor General's Office monitored and supervised conditions in places of detention, and representatives of the office and of the National Human Rights Commission were entitled to enter those places at any time (question 14). The level of overcrowding in prisons was more or less stable and the opening of the new detention centre should ensure that there were no human rights violations in terms of detention centre conditions. The State prison inspection agency had recommended closing the Denjiin Myanga detention centre completely. It was planned to replace it within the next three years, depending on the Government's financial and human resource capacity.

65. Prior to 2002, the Police Department had been in charge of pretrial detentions (question 15), but the task had been transferred to the agency responsible for overseeing the execution of court decisions. Suspects could be detained for up to 14 days while for accused persons, the maximum period had been reduced from 30 months to 24; for minors, the maximum period was 12 months. The period of detention was determined by the seriousness of the crime, and there was no detention for less serious crimes.

66. Lastly, the United Nations Standard Minimum Rules for the Treatment of Prisoners were applicable in the case of maximum security prisons where inmates were kept in isolation (question 16). Currently, if an individual had been sentenced to death and had then been pardoned, the sentence could be commuted to up to 30 years' imprisonment; moreover, in the case of serious crimes, part of the sentence might be served in an isolation unit. Changes would be introduced into the law enforcement legislation so that prisoners in solitary confinement could ask for their cases to be re-examined based on good behaviour. He confirmed that NGOs, including Amnesty International, were allowed to visit prisoners detained incommunicado.

67. **The Chairperson** invited members of the Committee to pose follow-up questions.

68. **Mr. Iwasawa** thanked the Mongolian delegation for its expressions of solidarity with Japan and said that the very comprehensive answers provided by the delegation indicated its willingness to engage in a constructive dialogue with the Committee.

69. He noted that Mongolia had ratified the First Optional Protocol to the Covenant in 1981, but was surprised to observe that the Committee had not received any individual communications or adopted any decisions or views in relation to the country. Additionally, the delegation had indicated that the Covenant had not been invoked by the courts, which raised the question of whether the Covenant and the individual communication procedure under the Optional Protocol were known in Mongolia. He would be interested to hear the delegation's comments in that regard.

70. Regarding the National Human Rights Commission, it remained unclear who appointed the commissioners and whether they were appointed on the recommendation of specific entities or bodies.

71. **Mr. Thelin**, referring to the events of July 2008 and the joinder of cases, asked why the trials had taken place at different courts and what criteria had been used to join the cases of certain individuals. He also sought clarification of whether all those convicted had been sentenced to pay damages for the very same material damage, namely 11 billion tugrig, and also personal damages to 367 policemen. He understood that a conviction was assured once the prosecutor had put the case to the court, but that left little room for the court to decide on the question of guilt. He would be interested to know why there had been no acquittals.

The meeting rose at 6 p.m.

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Summary record of the 2785th meeting
Held at Headquarters, New York, on Tuesday, 22 March 2011, at 10 a.m.

Chairperson: Ms. Majodina

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Consideration of reports submitted by States parties under article 40 of the Covenant (*continued*)

Fifth periodic report of Mongolia (*continued*)

This record is subject to correction.

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11-27313 (E)

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The meeting was called to order at 10.05 a.m.

Consideration of reports submitted by States parties under article 40 of the Covenant (*continued*)

Fifth periodic report of Mongolia (*continued*) (CCPR/C/MNG/5; CCPR/C/MNG/Q/5 and CCPR/C/MNG/Q/5/Add.1)

1. *At the invitation of the Chairperson, the members of the delegation of Mongolia took places at the Committee table.*

2. **The Chairperson** invited the members of the Committee to continue to pose follow-up questions in connection with questions 1 to 16 in the list of issues (CCPR/C/MNG/Q/5).

3. **Mr. Flinterman**, referring to the issue of discrimination against women, asked whether marital rape had been criminalized since the publication of the periodic report. As domestic violence, which affected one in three women in Mongolia, was linked to stereotypical thinking about a woman's place in society, he wondered what programmes and policies had been put in place to influence societal attitudes. He would also like to know what steps had been taken to encourage women to report rape and to ensure that cases were investigated and prosecuted. Lastly, in view of the persistence of high maternal mortality rates in rural Mongolia, he wondered what policies and programmes had been implemented there to reduce the persistently high rates of maternal mortality in rural areas.

4. **Mr. Salvioli** said that Mongolia apparently did not have a register of hate crimes. He expressed dismay that neither the courts nor the National Human Rights Commission had taken action on complaints of such crimes, or on complaints of torture or ill-treatment, leaving the victims with no effective recourse. Given the numerous incidents of torture or ill-treatment mentioned in non-governmental organization (NGO) and United Nations reports, it was strange that Mongolian investigators had found no evidence of them. When torture or ill-treatment was alleged, it was important for the State to follow accepted procedures to identify, prosecute and penalize such incidents, as set out in the Istanbul Protocol.

5. **Ms. Keller** asked again whether Mongolia intended to criminalize marital rape and sexual harassment and what steps the State party would take to ensure that public officials were fully aware of the legal provisions relating to violence against women. At the previous meeting, the delegation had said that the draft legislation on gender equality to be introduced at the spring session of Parliament would not be fully effective until 2013. If it took two years for a draft law to go before Parliament, be enacted and enter into force, then the draft legislation referred to at the previous meeting would not take effect for a very long time.

6. **Mr. Bayasgalan** (Mongolia), responding to the suggestion that the Convention might not be invoked in Mongolian courts simply because it was not well known, said that in 2008 the Supreme Court had issued a very precise decision requiring the courts to apply international treaties and conventions. However, for that decision to have the proper impact, a public information campaign should be launched and training provided for court staff and judges. The Ministry of Justice and Home Affairs was working to improve public understanding of the Supreme Court ruling.

7. In response to the question about the appointment of National Human Rights Commissioners, he said that the three commissioners were nominated by the President, the Standing Committee on Legal Affairs and the Supreme Court, respectively, and approved by Parliament at its plenary session. Commissioners served six-year terms.

8. Replying to the questions regarding the July 2008 events, he said that the 270 people punished had been tried in different courts because, while a case was normally heard in the jurisdiction where the alleged offence had been committed, the Supreme Court could reassign it to the jurisdiction of the suspect's place of residence to ease the workload of an overburdened court. With respect to the compensation of victims of the July 2008 riot, the courts had applied the existing Law on Granting Compensation to Victims to compensate the police officers and the public institution for injury and property damages. Lastly, while the courts were required by law to consider cases submitted by the Prosecutor-General's Office, they did not have to rule on them.

9. Turning to Mr. Flinterman's questions, he said that marital rape was a matter of great dispute in the legal community and among academics in Mongolia. Although a Ministry working group was drafting the related Criminal Code amendments, he could not

guarantee that either marital rape or sexual harassment would be criminalized.

10. He agreed that much remained to be done to combat domestic violence, despite aggressive efforts by Mongolian NGOs and the State. The 2004 Law on Combating Family Violence provided various services for victims, including legal counsel. The fault lay not in the legislation but in its implementation, which could be improved by providing training for police officers and changing attitudes within law enforcement.

11. The State gave high priority to reducing maternal mortality and had specific mortality reduction goals. However, its ability to create the infrastructure needed to serve vast, sparsely populated rural areas depended greatly on financial resources. It was essential to expand the State-run ambulance network to provide prompt service to rural communities nationwide. Mongolia had a maternity clinic in each *soum* (sub-province), with a more sophisticated facility at the *aimag* (province) level, and was continuing to open new clinics in order to increase the number of beds and improve conditions. A major goal of its Healthy Mongolian programme, implemented in partnership with the World Health Organization, was to improve maternal health and reduce maternal mortality.

12. With regard to measures taken to combat hate crimes, Mongolia had no specific provision in its Criminal Code for such crimes. That issue had been raised during the consideration of Mongolia's initial report under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and Mongolia might find the assistance of the relevant United Nations bodies useful in making the necessary amendments to its Criminal Code.

13. With respect to measures taken to prosecute torture, the public had become very conscious of that issue since Mongolia's accession to the Convention against Torture, although efforts to increase public awareness were continuing. In addition to providing training courses, Mongolia was working to establish a legal definition of torture. It was unclear whether the Investigation Unit of the Prosecutor-General's Office was capable of processing torture complaints effectively, and it might be necessary to amend the law to establish a specialized institution. He was confident that his country would be able to report progress in its next periodic report.

14. He agreed that, as part of its efforts to combat discrimination and violence against women, Mongolia needed to introduce a culture of non-tolerance of violence against women in its public institutions. Regarding the delay in implementing the gender equality legislation, some provisions would be enforced as soon as it was enacted, but others would be implemented gradually. For example, one provision set quotas for women in certain public employment categories, but in the case of heads of government agencies, the number of women heads would be adjusted upward only when a new Government was formed following parliamentary elections in 2011.

15. **The Chairperson** invited the members of the Committee to put questions to the delegation in connection with questions 17 to 29 in the list of issues.

16. **Mr. Iwasawa**, referring to question 17 on human trafficking, said he wondered when the bill on combating human trafficking might become law and whether the State party had a mechanism to protect witnesses and victims of human trafficking at all stages of the investigation and prosecution. He asked whether funds would be budgeted to support the NGO-run shelters for victims of human trafficking.

17. Although it had been part of the Criminal Code since 2002, article 113 on human trafficking was often overlooked by the courts in favour of article 124 on the lesser crime of inducing and organizing prostitution. The written reply indicated that the preference for article 124 was an issue of *corpus delicti*, but the Committee wondered if there were other reasons. Also, a 2008 amendment to article 113 changing the title from "Purchase and sale of humans" to "Human trafficking" reportedly released entities who had purchased a human being from criminal liability. He would like to know if that interpretation was correct and, if so, the rationale behind the amendment. He would also like to know why most cases of human trafficking were dismissed. Lastly, referring to reports that law enforcement officials had helped traffickers to identify potential victims and that high-level public officials were clients of minors forced into prostitution, he asked the delegation to comment on allegations that the State had not investigated or taken administrative or disciplinary action against the officials in question.

18. Turning to question 29 on steps taken to disseminate information about the Covenant, he wondered about the nature of the training given to

judges and whether training was provided for prosecutors, advocates and law enforcement officials.

19. **Mr. Thelin** asked again how many acquittals there had been among the 270 cases prosecuted in connection with the July 2008 riot. The extent to which there were acquittals had a bearing on question 18 on measures taken to combat corruption in the judiciary, which was perceived by the public to be the most corrupt sector of government.

20. Corruption in the judiciary was related to the broader concept of the independence of the judiciary, and he wondered whether the separation of powers enshrined in the Constitution of Mongolia was maintained in practice. The judiciary was reportedly subject to considerable executive branch and hierarchical pressure. He would like reassurances of the absence of ties between the executive and the Supreme Court, as well as information on the status of the 2009 presidential initiative to enhance the independence and transparency of the judiciary, including when one might expect results.

21. According to the report, the function of the General Council of Courts was to ensure the independence of the judiciary, and he was curious about its composition and its role in the appointment of judges as well as in disciplinary actions against them. He would also like to know whether the Anti-Corruption Agency mentioned in the written reply dealt with corruption in the judiciary.

22. He wished to express strong concern regarding the case of Mr. Bat-Yalalt, a human rights defender who had been convicted of defamation and sentenced to four months in prison in 2009 for contending that his client's human rights had been violated in a court case. The Committee had encouraged the decriminalization of defamation laws, and using them to stifle criticism was a violation of freedom of expression.

23. Further to the legal aid issue addressed in question 19, he was encouraged by the progress made on providing legal assistance and was certain that the State was doing its utmost to remedy the shortage of advocates. However, the Law on Advocacy did not provide for legal assistance as such, and it appeared necessary either to reform the Law or to adopt a new one. He would appreciate the delegation's comments on that matter.

24. **Mr. Salvioli**, referring to question 20 on alternatives to military service, wondered whether there had been any prosecutions of conscientious objectors before provisions had been made for alternative service and, if so, whether they had resulted in convictions still standing. In addition, as the two years of alternative service included six month's physical service, he would appreciate clarification on the remaining year and a half. He would also like to know why alternative service was performed under military command. Furthermore, if it was possible to pay to be excused from alternative service, such a practice would constitute discrimination against those less able to pay. Lastly, he would like to know if any cases of torture or ill-treatment during military service had been investigated and, additionally, if such cases could be heard in civilian courts.

25. In question 21, the Committee had asked the State if religious institutions seeking to register or re-register faced difficulties in obtaining a permit to conduct religious activities. He would appreciate an answer to that question, rather than a description of the applicable legal provisions.

26. In connection with question 27 regarding participation in parliamentary and presidential elections, he would also like to know about mechanisms for providing electoral transparency and external monitoring. He wondered why the 30 per cent quota for women members of Parliament had been repealed, especially since the proportion of women members had declined to 4 per cent. He also wondered when the State Great Khural elections bill, which contained a provision allowing Mongolian citizens residing abroad to participate in parliamentary elections, was likely to become law. Lastly, he asked whether all detainees could vote regardless of their offence or the status of their case.

27. **Ms. Keller**, referring to question 22 on the freedom of information bill, wondered why there had been a nine-year delay in passing a law on freedom of information. It would be useful to hear about the main features of the new bill, when it would be submitted to Parliament and the potential obstacles to its passage. She would also appreciate the delegation's comments on NGO reports that national and local media continued to be subjected to government and political party harassment, extensive use of libel cases and frequent tax audits.

28. Referring to the State's reply to question 23 on citizenship issues, she found it odd, given Mongolia's geographic location, that no foreign citizens or stateless persons had requested asylum since 2001. She would appreciate figures, either orally or in writing, on how many children born in Mongolia to non-Mongolian parents had applied for citizenship during the reporting period, as well as the average time required to process such applications, especially in view of an NGO report that the process of reinstating citizenship for returning Kazakh Mongolians took between 9 and 13 years. She wondered whether the State's recognition of the right of return of Kazakh Mongolians implied that returning Kazakhs could reacquire citizenship.

29. With respect to question 28 on the education of Kazakh children, she expressed concern that, according to an NGO report, there was still no access to education in the Kazakh language outside Bayan-Ulgii *aimag*, where, on the other hand, the schools did not teach Mongolian, which was essential for reading official documents. She would like to know, in general, what the education programme for Kazakh children had achieved to date and, in particular, how many Kazakh children had gained access to education and textbooks in the Kazakh language since 2001.

30. **Mr. Rivas Posada** said that the State party's thorough reply to question 24 on the corporal punishment of children, which detailed the relevant provisions of its Law on Education and various orders of the Ministry of Education, showed a genuine commitment to providing children with a stimulating school environment where their physical and emotional rights were respected. He would be interested to learn whether corporal punishment was prohibited in other circumstances, such as penal and alternative childcare settings. With respect to question 25 on domestic violence, he would like to know to what extent the right of protection from marital rape had been discussed in Mongolia.

31. **Mr. Bouzid**, noting the close connection between judiciary corruption and access to a fair trial, asked whether any proceedings had been instituted against judges for corruption. Also, in reference to the scarcity of lawyers mentioned by Mr. Thelin, he wished to know how many lawyers there were in Mongolia.

32. **Sir Nigel Rodley** said that it was unclear whether the alternative military service described in the State party's reply was the sole form of alternative service available, or whether conscientious objectors could choose a separate, non-military form. If there was no civilian option, it was not clear how the needs of conscientious objectors were being met.

33. **Ms. Chanet** said that she would like to know the grounds for which judges could be legally disciplined or dismissed. In addition to receiving such guarantees, salary, wages and remunerations as were provided for in the Law on Civil Service, according to the report (CCPR/C/MNG/5), judges who worked efficiently were eligible for loans to finance their studies or build their apartments. The Chief Justice of the Supreme Court enjoyed diplomatic immunity, and his or her person and residence were considered inviolable. First, she wished to know how the term "efficiency" was understood in relation to a judge. Secondly, although the purpose of granting judges such extraordinary perquisites and privileges might be to discourage corruption, it could also be perceived — perhaps rightly — as making them dependent on the executive branch for their exceptional position of privilege.

34. The periodic report stated that advocates practised under the auspices of the State. However, advocates were not public employees, and she wondered what guarantees existed to ensure their independence. She would like to know how advocates were compensated and, in general, how the law was practised in Mongolia.

35. *The meeting was suspended at 11.20 a.m. and resumed at 11.40 a.m.*

36. **The Chairperson** invited the delegation to respond to the questions raised by the Committee regarding questions 17 to 29 in the list of issues.

37. **Mr. Bayasgalan** (Mongolia), said that the Ministry would soon submit the draft legislation on human trafficking to the Cabinet for further consideration and he was hopeful that it would pass during the spring session. Although the draft law contained provisions to protect witnesses and victims, the Ministry was in the process of drafting a separate law on witness and victim protection. Mongolia would utilize the capacity already built by NGOs, such as the shelters to which Mr. Iwasawa had referred, and would provide the NGOs with technical and financial support to expand their programmes. As for the courts' reluctance to apply article 113 of the Criminal Code, it was probably due to a lack of familiarity with a

relatively new article of law, which pointed to a need to educate the relevant institutions about the article. However, while human trafficking was understood to be cross-border human trafficking under Mongolian law, it could have a broader meaning, and the State might do well to bring organized prostitution under that heading. Lastly, regarding administrative or disciplinary actions taken against high-ranking police officers for involvement in human trafficking, he did not have sufficient information and would need to report later in writing.

38. With respect to dissemination of information about the Covenant, prior to 2005 only a few of the international treaties and conventions to which Mongolia was a party had been published in Mongolia. A unified volume was now available through the National Legal Centre, and the subject of international treaties and conventions had been incorporated into the law school curriculum. Information would be systematically disseminated to the public on a regular basis.

39. In answer to Mr. Thelin's questions in connection with the July 2008 riot, he said that only 270 of the 300 people charged had actually been brought to trial; in other words, more than 30 cases had been dismissed. On the subject of judicial corruption and the independence of the judiciary, he said that there was a big gap between public perception and the facts, since the records of the Anti-Corruption Agency showed only one complaint against the courts. As part of the President's legal reform initiative, anti-corruption officials were monitoring the independence of the courts and seeking to restore public confidence. The independence of the judiciary would also be a topic of discussion in April 2011 during the President's legal forum, which would make recommendations on that and other issues. Lastly, despite the reference in the report to the General Council of Courts' function as a guarantor of judiciary independence, its basic role was to allocate and implement the judicial budget. It had 15 members: 3 judges, several prosecutors, the Minister of Justice and the country's high-ranking judicial officials. There were other institutions responsible for disciplining the judiciary.

40. With respect to ties between the executive branch and the Supreme Court, the Constitution prohibited any interference by the executive with the proceedings of the courts. While judiciary officials maintained that there was no interference from the executive branch, the public perception was otherwise, and it would be necessary to address any shortcomings to ensure genuine independence. The Ministry of Justice fully supported the presidential reform initiative.

41. Regarding the defamation case referred to, he was not in a position to comment on a court decision. Defamation through mass media was a prosecutable offence, although it was generally considered a matter of administrative, not criminal, law. The Ministry of Justice would review the legal provisions on defamation again during its consideration of new amendments and would take into account any NGO proposals.

42. There were indeed too few advocates in rural areas, and the State was working with the United Nations Development Programme to establish a centrally located legal aid centre in each province to provide free legal advice in criminal cases. In Mongolia, legal representation was deemed integral to legal assistance. Parliament was debating a related amendment to the Law on Advocacy, and the Ministry was in the process of drafting a comprehensive law on legal aid that would establish a nationwide legal aid network of advocates, paralegals, legal clinics and legal aid centres with the support and involvement of all stakeholders.

43. Turning to Mr. Salvioli's questions about alternative military service, he reviewed the eligibility requirements and the duties involved. The maximum period of service was two years; the minimum, six months. The number of people in alternative military service was determined by the municipal and provincial assemblies. He did not consider it discriminatory to exempt those who were physically unfit to serve in exchange for payment, but he would value the Committee's opinion as to whether that practice complied with international standards. Lastly, while some suicides had occurred during military service, the statistics did not indicate an upward trend.

44. There were no serious legal or administrative obstacles to the registration or re-registration of religious institutions. Once an application was approved by the provincial assembly, registration was only an administrative formality. The growing numbers of religious organizations represented the Buddhist, Christian, Muslim, Baha'i, Shamanist and Unification Church faiths.

45. The July 2008 events had been due, at the root, to a lack of electoral fairness and transparency, and the governing coalition formed in their wake had given considerable priority to improving that situation. A draft law on electoral reform should have been submitted to Parliament at its previous session, but it had been held back for fine-tuning and would be considered at the upcoming spring session. With respect to the repeal of the 30 per cent quota for women members of Parliament, further debate was expected, although there was no legislation pending. As for allowing Mongolian citizens abroad to vote in parliamentary elections, that right was set out in the State Great Khural elections bill, and the State had begun registering citizens living abroad and considering mechanisms for organizing the voting process. The fact that some Mongolians abroad were illegal residents added to the technical challenges. Persons serving sentences for criminal offences could not vote, but those detained pending trial enjoyed full suffrage.

46. With respect to Ms. Keller's questions, the State had tried repeatedly over a nine-year period to get a draft law on freedom of information through Parliament and would be submitting another one again that spring. The Ministry was also drafting legislation on freedom of the press that would be sent to Parliament in the course of the session. The new draft law provided a legal framework for freedom of the media, including the legal basis for the establishment of a press council. He agreed that bringing tax or other forms of pressure to bear on the media in response to the publication of information on high-ranking officials greatly jeopardized its independence. The State was attentive to NGO reports of pressure placed on the media, but it could not effect change overnight. Moreover, the media also bore a burden of responsibility.

47. With regard to stateless persons requesting asylum, in 2010 Mongolia had issued 694 immigration visas and 35 residency visas to stateless persons. It had granted citizenship to 3 people, denied citizenship to 17,550 and restored citizenship to 126. Most of the 17,550 people denied citizenship were Kazakhs. He noted that Mongolian citizens who had gone to Kazakhstan to acquire Kazakh citizenship generally held dual citizenship. A Kazakh's application for restoration of citizenship, for which certain documents were required, was evaluated and then sent to the President, who issued the restoration order. Applicants should find no obstacle to the restoration of citizenship. Under Mongolian law, a citizenship application must be approved or denied within six months. If some cases had been pending as long as 13 years, the Ministry was prepared to give them consideration.

48. With respect to the education programme for Kazakh children, between 1999 and 2007, 24 textbooks had been translated into the Kazakh language. In 2009 in Bayan-Ulgii *aimag*, 23,867 Kazakh pupils had attended 42 secondary schools. Classes were taught in Kazakh in grades 1 to 5, although some subjects were taught bilingually. The Constitution had been officially translated into Kazakh and other laws were also being translated solely out of respect for the national minority, as Mongolian was the official language. Further efforts were required to bring the Kazakh people into the decision-making process, for which purpose the advice and information of the National Human Rights Commission would prove useful.

49. In response to the query regarding the prohibition of corporal punishment in non-school settings, he said that the Law on the Protection of Children's Rights dealt with that issue in detail. At the practical level, there was a daily public information campaign on the prohibition of corporal punishment at home and at school, as well as a child abuse hotline, which had fielded more than 500 calls in 2010. Victims received psychological, legal and medical services. Mongolia would take every possible measure to introduce a culture of intolerance of violations of children's rights, which would require amendment of the Law on the Protection of Children's Rights.

50. With respect to Mr. Bouzid's questions, he said that the statistics showed little judicial corruption. However, in view of the public perception of corruption, Mongolia was working with donor countries to take the decisive measures needed to increase fairness and the perception of fairness in its judicial system.

51. The workload of Mongolia's 400 judges was generally considered somewhat heavy, but rather than increasing the number of judges, Mongolia was adopting the practice of assigning each judge an assistant to ease the burden of administrative and technical duties. Mongolia had 1,137 licensed, practising advocates. Over 80 per cent were located in

the capital, leaving the provinces — home to more than half of the population — underserved.

52. In reply to Sir Nigel Rodley's question, he said that Mongolia provided for alternative military service only. There was no civilian service option.

53. Lastly, with respect the exceptional perquisites and privileges extended to judges, their purpose was, indeed, to shield them from the temptation of corruption and guarantee their independence. Paradoxically, the public seemed to perceive such entitlements as evidence of corruption. In the final analysis, Mongolia relied on its judicial code of conduct and its criteria for the selection of judges to ensure their independence. All relevant practices would be reconsidered in the light of international best practice during the upcoming presidential forum on legal reform, which should produce recommendations on how to get back on track. Regarding the compensation of advocates, he said that they were partially or fully reimbursed for services to the poor on a sliding scale.

54. **The Chairperson** invited the members of the Committee to pose follow-up questions on questions 17 to 29 in the list of issues.

55. **Mr. Thelin** wondered whether the April forum on legal reform would consider any specific pieces of draft legislation or simply act as a springboard for future legislative measures. He was curious as to the composition of the forum and, specifically, whether NGOs would be able to take part.

56. **Mr. Iwasawa** reminded the delegation of Ms. Keller's request for comments on the extensive use of libel cases against journalists. He would also be interested to hear the delegation's comments on reports that there had been numerous attacks on journalists, that the non-State media news was censured and that sometimes only State media was allowed in Parliament.

57. The principle of *non-refoulement* governed the handling of requests for asylum, which were conspicuously absent in Mongolia. He noted that Mongolia was a party to the Convention against Torture and thus had agreed not to return a person to another State where he would be in danger of torture. Under the Convention relating to the Status of Refugees, contracting States agreed to not to return a refugee to a State where his life or freedom would be threatened, and he wondered whether Mongolia was willing to respect the principle of *non-refoulement* thus defined, even though it was not yet a party to the Convention.

58. **Sir Nigel Rodley** said that, although there had been no conscientious objectors in Mongolia during the reporting period, thousands had performed alternative military service from 2000 to 2009. He would like to know the criteria for choosing or being chosen for alternative military service.

59. **Mr. Fathalla** wondered whether the payment for exemption from military service was a fixed amount, or based on financial resources. He would also like to know the nature of the technical issues mentioned in connection with laying the groundwork for Mongolians living abroad to vote. Lastly, with respect to the judiciary's diplomatic immunity, he wished to know whether it was true diplomatic immunity, as defined in the Vienna Convention on Diplomatic Relations, or whether it was actually judicial immunity, which was granted in many countries to ensure judiciary independence and transparency.

60. **Mr. Bayasgalan** (Mongolia), replying to Mr. Thelin, said that the legal forum on reform was modelled on the World Economic Forum in Davos and would have similar participants, including NGOs. He expected it to produce tangible results that would be of great help in making the necessary legislative amendments.

61. In answer to the question about libel suits against journalists, he said that there were frequent exchanges of accusations between journalists and the subjects of their reporting in Mongolia, and some people did in fact sue for libel. Journalists had a duty and a responsibility to ensure the accuracy of their reports, and citizens had a right to sue if they did not. As for media censorship, Mongolia no longer had State-run media. Its former media channels were now public-private ventures jointly controlled by all stakeholders, including NGOs.

62. With respect to the principle of *non-refoulement*, Mongolia was bound by its Constitution to comply with internationally recognized principles of law, and it therefore recognized the principle of *non-refoulement* as defined in the Refugee Convention, even though it was not a party.

63. In reply to the questions regarding alternative military service, he said that despite the large number of people refusing regular military service, none had done so on the basis of religious beliefs. The flat fee for exemption was 2.6 million togrogs.

64. Addressing the remainder of Mr. Fathalla's questions, he said that the technical difficulties in organizing voting for Mongolians residing abroad were mainly due to the fact that Mongolians lived all over the world and the State could not afford to have diplomatic representation in every country. With respect to the judiciary's diplomatic immunity, the Chief Justice of the Supreme Court did have true diplomatic immunity as a high-ranking government official, but that privilege might be reconsidered in the context of judiciary law reforms.

65. In closing, he hoped that he had answered all of the Committee's questions. He was grateful for its understanding and appreciation of his country. Its comments and recommendations would receive serious consideration, and every effort would be made to adopt the appropriate measures, as should be evident in Mongolia's next periodic report.

66. **The Chairperson** thanked the delegation for its very comprehensive oral replies. The Committee welcomed the ongoing legal process of ratifying the Convention's Second Optional Protocol. It appreciated the precedence of international over domestic law in Mongolia, as well as the country's efforts to improve the status of women. However, it had lingering concerns, particularly with respect to the judicial response to the July 2008 events, the independence of the judiciary, the role and mandate of the National Human Rights Commission, the low representation of women in public life, and the continued absence of a law on freedom of information.

The meeting rose at 1.05 p.m.